

# HOUSE BILL No. 1113

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 33-37.

**Synopsis:** Service fees. Provides for the collection of a \$10 service fee in civil actions for each defendant named or added in a civil action. Increases the small claims service fee from \$5 to \$10 for each defendant named or added in a small claims action. Specifies that 100% of the service fees shall be deposited in the appropriate county, city, or town general fund.

**Effective:** July 1, 2005.

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**Richardson**

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January 6, 2005, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1113

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 33-37-4-4, AS AMENDED BY P.L.85-2004,  
2       SECTION 19, AND AS AMENDED BY P.L.95-2004, SECTION 7, IS  
3       CORRECTED AND AMENDED TO READ AS FOLLOWS  
4       [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The clerk shall collect a civil  
5       costs fee of one hundred dollars (\$100) from a party filing a civil  
6       action. This subsection does not apply to the following civil actions:

7               (1) Proceedings to enforce a statute defining an infraction under  
8               IC 34-28-5 (or IC 34-4-32 before its repeal).

9               (2) Proceedings to enforce an ordinance under IC 34-28-5 (or  
10              IC 34-4-32 before its repeal).

11              (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.

12              (4) Proceedings in paternity under IC 31-14.

13              (5) Proceedings in small claims court under IC 33-34.

14              (6) Proceedings in actions described in section 7 of this chapter.

15       (b) In addition to the civil costs fee collected under this section, the  
16       clerk shall collect the following fees, if they are required under  
17       IC 33-37-5:

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(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A support and maintenance fee (IC 33-37-5-6).

(3) A document storage fee (IC 33-37-5-20).

(4) An automated record keeping fee (IC 33-37-5-21).

(5) *A judicial administration fee under (IC 33-37-5-21.2).*

~~(5) (6) A judicial insurance adjustment fee under (IC 33-37-5-25).~~

**(7) A service fee (IC 33-37-5-26).**

SECTION 2. IC 33-37-4-6, AS AMENDED BY P.L.85-2004, SECTION 21, AND AS AMENDED BY P.L.95-2004, SECTION 9, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) For each small claims action, the clerk shall collect from the party filing the action both of the following fees:

(1) A small claims costs fee of thirty-five dollars (\$35).

(2) A small claims service fee of ~~five~~ **ten** dollars ~~(\$5)~~ **(\$10)** for each defendant named or added in the small claims action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) *A judicial administration fee under (IC 33-37-5-21.2).*

~~(4) (5) A judicial insurance adjustment fee under (IC 33-37-5-25).~~

~~(c) This section applies after June 30, 2005.~~

SECTION 3. IC 33-37-5-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 26. (a) This section applies to a civil action in which the clerk is required to collect a civil costs fee under IC 33-37-4-4(a).**

**(b) The clerk shall collect from the party filing the civil action a service fee of ten dollars (\$10) for each defendant named or added in the civil action.**

SECTION 4. IC 33-37-7-2, AS AMENDED BY P.L.85-2004, SECTION 25, AND AS AMENDED BY P.L.95-2004, SECTION 13, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The clerk of a circuit court

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shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected

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under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(2) for deposit in the county general fund.

*(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-37-5-21.2.*

~~(j)~~ **(j)** *The clerk of a circuit court shall semiannually distribute to*

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1 *the auditor of state for deposit in the judicial branch insurance*  
 2 *adjustment account established by IC 33-38-5-8.2 one hundred percent*  
 3 *(100%) of the judicial insurance adjustment fee collected under*  
 4 *IC 33-37-5-25.*

5 ~~(j) This section applies after June 30, 2005.~~

6 **(k) The proceeds of the service fees collected under**  
 7 **IC 33-37-5-26 shall be distributed as follows:**

8 **(1) The clerk shall distribute one hundred percent (100%) of**  
 9 **the service fees collected in a circuit, superior, county, or**  
 10 **probate court to the county auditor for deposit in the county**  
 11 **general fund.**

12 **(2) The clerk shall distribute one hundred percent (100%) of**  
 13 **the service fees collected in a city or town court to the county**  
 14 **auditor for deposit in the city or town general fund.**

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